

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Tilmer Everett,)
Plaintiff,) **ORDER**
vs.)
Roger Marks, III, et. al.,) Case No. 1:17-cr-136
Defendants.)

The plaintiff, Tilmer Everett ("Everett"), is inmate at the North Dakota State Penitentiary ("NDSP") in Bismarck, North Dakota. He initiated the above entitled action pro se on July 10, 2017, with the payment of the civil filing fee and the submission of a forty-eight page complaint asserting multiple claims against eight defendants. On August 1, 2017, he filed a request for the issuance of a criminal complaint and arrest warrants for the eight defendants named in his civil complaint.

Everett has no constitutional right to a criminal investigation or prosecution. See Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973) ("a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another"); Parkhurst v. Tabor, 569 F.3d 861, 865-67 (8th Cir. 2009) (crime victims lack standing to compel a criminal prosecution); see also Smith v. Shaw, No. 5:09-01001, 2012 WL 1832340, at * 1 (S.D. W.Va. April 25, 2012) (citing numerous cases). Also, the court does not have the authority to direct that an individual be prosecuted. See United States v. Batchelder, 442 U.S. 114, 124 (1979) (the decisions of whether to prosecute and what charges to file rest in the prosecutor's discretion); see also Inmates of Attica Corr. Facility v. Rockefeller, 447 F.2d 375 (2nd Cir. 1973) (the authority to investigate and initiate criminal complaints rest exclusively with the United States Attorney); Young v. Harold, No. 04CV245WOB, 2005 WL

1048117, at *8 (E.D. Ky. May 3, 2005) (opining that federal courts have no authority to initiate criminal proceedings). Everett's request for the issuance of a criminal complaint and arrest warrants (Docket No. 8) is therefore **DENIED**.

IT IS SO ORDERED.

Dated this 21st day of August, 2017.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr., Magistrate Judge
United States District Court